

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

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SPECIAL CIVIL APPLICATION No 825 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

AHMEDABAD MUNICIPAL NOKAR MANDAL

Versus

AHMEDABAD MUNICIPAL CORPN

Appearance:

MR MB GANDHI for Petitioner
MR MR ANAND, senior counsel, with
Mr. Raval for Respondent No. 1
SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 22/07/97

ORAL JUDGEMENT

This Special Civil Application is directed against the Award dated 14.12.94 passed by the Industrial Tribunal at Ahmedabad in Reference (IT) 756/82. The petitioner - Mandal representing 20 workers of the Health Refuse Department of Ahmedabad Municipal Corporation raised a dispute that these workers had discharged

supervisory work and on the principle of equal pay for equal work they were entitled to be paid the minimum of the pay scale of Supervisor. The Industrial Tribunal adjudicated the Reference and came to the conclusion that the petitioner - Mandal had failed to substantiate the claim and accordingly the Reference was rejected. Mr. Gandhi appearing for the petitioner - Mandal has argued that large number of documents were filed by the petitioner - Mandal before the Industrial Tribunal, list of such documents numbering 92 dated 6.8.92 has been annexed with this petition at page Nos.26 to 32. Mr. Gandhi has raised a grievance that these documents have not been considered by the Industrial Tribunal and, therefore, the order passed by the Industrial Tribunal is bad in the eye of law and deserves to be quashed and set aside.

Mr. Anand appearing on behalf of the Municipal Corporation has submitted that it was for the petitioner -Mandal to establish that the workers, whom it was representing, had actually discharged the work of supervisory nature while working in the Health Refuse Department. He has also pointed out that the Industrial Tribunal has considered and made reference to these documents in Para 12 of the order.

I have heard learned counsel for both the sides. From the impugned Award dated 14.12.94 passed by the Industrial Tribunal it is very clear that the order has been passed on consideration of the entire material, which was placed on record and the oral evidence. The oral evidence, which was led on behalf of the Municipal Corporation, clearly shows that none of the workers was ever appointed as Supervisor and it has also been stated by the witnesses on behalf of the Municipal Corporation that the supervisory work was never entrusted or assigned to any of these workers. The Industrial Tribunal also considered the documentary evidence. May be that there is no reference to each and every document but it has been categorically observed by the Industrial Tribunal that majority of these documents are of the period during the pendency of the Reference and only some documents are of period prior to that. It has also been observed by the Industrial Tribunal that from these documents, it was not clear that the concerned workmen were working as supervisors and it has been further observed that even if it is assumed that the concerned workmen had discharged the duties in supervisory capacity casually, it can not be said that they had discharged the duties in supervisory capacity since the date of appointment. Thus it cannot be said that the Industrial Tribunal has passed

the Award without considering the material and the evidence. The case, which was deposed by the witnesses in the oral evidence on behalf of the Municipal Corporation, has not been demolished in the cross-examination on behalf of the Mandal. I do not find that the impugned Award suffers from any infirmity or any such error of fact or of law so as to warrant interference by this court in this writ of certiorari. The Industrial Tribunal has certainly made reference to entitlement to the charge allowance in case any individual workman is found to be entitled in accordance with the relevant Circulars of the Municipal Corporation. Taking an over all view of the matter while no interference whatsoever is warranted with the impugned Award passed by the Industrial Tribunal, it is observed that the individual workman may approach the concerned competent authority i.e. the Head of the Health Refuse Department and in case any particular workman is able to establish his claim to the satisfaction of such authority including the question with regard to the charge allowance, such competent authority may pass orders on the representation in accordance with law. It is however, made clear with the consent of both the sides that the order which may be passed now on representations by the Head of the Health Refuse Department shall be final and it will not give rise to any further litigation. With the observations, as aforesaid, this Special Civil Application is hereby dismissed. Rule is discharged with no order as to costs.